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14 **UNITED STATES DISTRICT COURT**  
15 **DISTRICT OF NEVADA**

16 GERALD ARMSTRONG,  
17 Plaintiff,  
18 vs.

CASE NO. CV-N-97-00670 ECR (RAM)

**AMENDED DEFENDANTS' REPLY ON  
THEIR MOTION FOR ATTORNEYS'  
FEES**

19 CHURCH OF SCIENTOLOGY  
INTERNATIONAL, a California corporation;  
20 and the RELIGIOUS TECHNOLOGY  
CENTER, a California corporation,  
21 Defendants.  
22  
23

24 On November 25, 1998, plaintiff filed by hand, via deposit into this Court's drop box, its  
25 Opposition to Defendants' Motion for Attorneys' Fees. Plaintiff did not serve that opposition on  
26 defendants' counsel on that same date, but rather, delayed one week until December 2, 1998. Defendants  
27 learned, only serendipitously, of the opposition from a search early last week of the clerk's file.

28 Plaintiff's failure to properly serve his opposition is, in and of itself, grounds to strike it, ignore it,



1 and grant defendants' motion on default. This Court is well aware of plaintiff's long history of failing to  
2 make timely filings and service of same. The filing of a paper by hand with the clerk's office while not  
3 simultaneously serving a copy by hand on defendants' counsel one block away, is yet another example of  
4 plaintiff's sharp practices. Plaintiff's latest misconduct respecting the failure to properly serve its opposition  
5 should not, therefore, go unnoticed or unpunished.

6 Further, plaintiff offers no substantive opposition to defendants' Motion for Attorneys' Fees. As  
7 near as can be determined, the entirety of plaintiff's opposition is his erroneous argument that defendants  
8 did not comply with Local Rule 54-16. Beyond that, plaintiff offers nothing in opposition to defendants'  
9 motion. No excuse, no justification, not even an apology to this Court for plaintiff's conduct which has  
10 given rise to defendants' motion. In short, plaintiff has *sub silentio* conceded the substantive merit of  
11 defendants' motion.

12 Finally, plaintiff's contention of non-compliance with Local Court Rule 54-16(b) for failure to  
13 submit proof of the amount of attorneys' fees they seek, is entirely misplaced. LR 54-16(b) allows for the  
14 filing of documentation supporting the quantification of the attorneys' fees to a later date "upon Order of  
15 the Court." Defendants timely sought leave of the Court to submit declarations and exhibits relating to the  
16 amount of attorneys' fees and expenses within ten (10) days of the Court's ruling on the Motion for  
17 Attorneys' Fees. (See Docket # 74). In short, plaintiff's claim of lack of compliance is flat out wrong.

18 Based on all of the foregoing, defendants respectfully request that their motion be granted and that  
19 they be permitted ten business days to file proof of the quantification of their attorneys' fees following  
20 receipt of an Order of this Court granting their motion.

21 Finally, Friday, December 4, plaintiff Armstrong was deposed in an unrelated case. He was,  
22 however, asked about his financial relationship with Mr. Minton. In contrast to his initial testimony (and  
23 Mr. Abbott's representations) in this case suggesting that Mr. Abbott was acting *pro bono*, and in contrast  
24 to even Mr. Armstrong's later admission that Mr. Minton paid Mr. Abbott \$10,000 (in 1997) to represent  
25 Mr. Armstrong, Mr. Armstrong's December 4, 1998, testimony is:

- 26 1. Mr. Minton paid Mr. Abbott \$75,000 to represent Mr. Armstrong in this case; and
- 27 2. In addition, Mr. Minton sent Mr. Abbott an additional \$25,000 to hold and to dispense to
- 28 Mr. Armstrong for his personal use, i.e., a reward or "bounty" for suing Scientology. See **Exhibit A**.

1 Declaration of Kendrick L. Moxon.

2 The foregoing is yet further evidence of the deceptions practiced upon this Court by plaintiff and his  
3 counsel, thus warranting the imposition of sanctions, and, in addition, demonstrates that there are substantial  
4 unused Minton funds held by Mr. Abbott available to pay defendant's counsel fees.

5 DATED this 15<sup>th</sup> day of December , 1998.

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15 UNITED STATES DISTRICT COURT  
16 DISTRICT OF NEVADA  
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18 GERALD ARMSTRONG,

19 Plaintiff,

20 vs.

21 CHURCH OF SCIENTOLOGY  
INTERNATIONAL, a California corporation;  
22 and the RELIGIOUS TECHNOLOGY  
CENTER, a California corporation.

23 Defendants.  
24  
25

CASE NO. CV-N-97-00670 ECR (RAM)

DECLARATION OF KENDRICK L.  
MOXON, ESQ. IN SUPPORT OF  
DEFENDANTS' REPLY ON THEIR  
MOTION FOR ATTORNEYS' FEES

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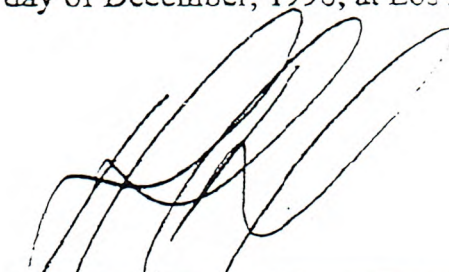
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1 I, Kendrick L. Moxon, declare as follows:

2 1. I make the following statements of my own personal knowledge, and if called to  
3 testify thereto, I could and would do so competently. I am an attorney admitted to practice  
4 in all courts of California, as well as numerous federal courts in the Ninth Circuit, the  
5 District of Columbia and elsewhere. I have represented the Church of Scientology  
6 International ("CSI") for many years. As a result of my experience on behalf of CSI and  
7 as a consultant to counsel in that matter, I attended a deposition of Gerald Armstrong taken  
8 on December 4, 1998 in Tampa, Florida, in the case of *Liebreich v. Church of Scientology*  
9 *Flag Service Organization, Inc., et al.*, Hillsborough County, Florida Circuit Court Case  
10 No. 97-01235. The transcript is not yet available from the Court reporter.

11 2. During his deposition, Armstrong was questioned regarding his relationship with  
12 a Robert Minton. Armstrong testified that Minton has given him a total of \$100,000, in  
13 November of 1997 and January of 1998, of which \$75,000 was for Armstrong's use in the  
14 above-captioned litigation and \$25,000 was for Armstrong's personal use. Armstrong  
15 testified that \$75,000 was paid directly into the trust account of Armstrong's attorney,  
16 George Abbott, in Minden, Nevada. Armstrong further testified that whatever portion of  
17 the \$75,000 has not already been spent on litigation costs by Mr. Abbot, remains in Mr.  
18 Abbott's trust account, and that approximately \$5,000 still remains of the \$25,000  
19 provided to him for personal use.

20 I declare under penalty of perjury under the laws of the United States that the  
21 foregoing is true and correct. Executed this 7th day of December, 1998, at Los Angeles,  
22 California.

23  
24  
25  
26  
  
Kendrick L. Moxon



PROOF OF SERVICE BY MAIL

I, Mary Anna Singer, declare:

I am employed in the City of Reno, County of Washoe, State of Nevada by the law offices of Hale Lane Peek Dennison Howard and Anderson. My business address is 100 W. Liberty Street, Tenth Floor, Reno, Nevada 89501. I am over the age of 18 years and not a party to this action.

I am readily familiar with Hale Lane Peek Dennison Howard and Anderson's practice for collection and processing of its outgoing mail with the United States Postal Service. Such practice in the ordinary course of business provides for the deposit of all outgoing mail with the United States Postal Service on the same day it is collected and processed for mailing.

On December 15, 1998, I served the foregoing **AMENDED DEFENDANTS' REPLY ON THEIR MOTION FOR ATTORNEYS' FEES** by placing a true copy thereof in Hale Lane Peek Dennison Howard and Anderson's outgoing mail in a sealed envelope, addressed as follows:

George W. Abbott, Esquire  
George W. Abbott, Chtd.  
2245 B Meridian Boulevard  
P.O. Box 98  
Minden, NV 89423

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct, and that this declaration was executed on December 15, 1998.

  
Mary Anna Singer